

(I) THE EXTENT TO WHICH THEY CONSIST OF FINANCIAL ASSETS, INTERESTS IN CLOSELY HELD ENTERPRISES, TANGIBLE AND INTANGIBLE PERSONAL PROPERTY, OR REAL PROPERTY;

(II) THE EXTENT TO WHICH AN ASSET IS USED BY A BENEFICIARY;  
AND

(III) WHETHER AN ASSET WAS ACQUIRED BY THE TRUSTEE OR RECEIVED FROM THE CREATOR OF THE TRUST;

(6) WHETHER AND TO WHAT EXTENT THE TERMS OF THE TRUST GIVE THE TRUSTEE THE POWER TO INVADE PRINCIPAL OR ACCUMULATE INCOME AND THE EXTENT TO WHICH THE TRUSTEE HAS EXERCISED A POWER FROM TIME TO TIME TO INVADE PRINCIPAL OR ACCUMULATE INCOME;

(7) THE ACTUAL AND ANTICIPATED EFFECT OF ECONOMIC CONDITIONS ON PRINCIPAL AND INCOME AND THE EFFECTS OF INFLATION AND DEFLATION; AND

(8) THE ANTICIPATED TAX CONSEQUENCES OF ~~AN ADJUSTMENT A~~ UNITRUST CONVERSION.

(C) AFTER A TRUST IS CONVERTED TO A UNITRUST, ALL OF THE FOLLOWING APPLY:

(1) THE INCOME OF THE TRUST THAT THE INCOME BENEFICIARY IS ENTITLED TO RECEIVE UNDER THE GOVERNING INSTRUMENT SHALL BE AN ANNUAL UNITRUST DISTRIBUTION EQUAL TO A PAYOUT PERCENTAGE OF 4% OF THE NET FAIR MARKET VALUE OF THE TRUST'S ASSETS, WHETHER THOSE ASSETS WOULD BE CONSIDERED INCOME OR PRINCIPAL UNDER ANY OTHER PROVISION OF THIS SUBTITLE, AVERAGED OVER THE LESSER OF:

(I) THE 3 PRECEDING YEARS; OR

(II) THE PERIOD DURING WHICH THE TRUST HAS BEEN IN EXISTENCE;

(2) EXPENSES THAT WOULD BE DEDUCTED FROM INCOME IF THE TRUST WERE NOT A UNITRUST MAY NOT BE DEDUCTED FROM THE UNITRUST DISTRIBUTION;

(3) ANY PROVISION IN THE GOVERNING INSTRUMENT DIRECTING OR AUTHORIZING THE TRUSTEE TO DISTRIBUTE PRINCIPAL OR AUTHORIZING A BENEFICIARY TO WITHDRAW A PORTION OR ALL OF THE PRINCIPAL MAY NOT BE AFFECTED BY THE CONVERSION TO A UNITRUST;

(4) UNLESS OTHERWISE PROVIDED BY THE GOVERNING INSTRUMENT, THE UNITRUST DISTRIBUTION SHALL BE PAID FIRST FROM NET INCOME OF THE TRUST, AS NET INCOME WOULD BE DETERMINED IF THE TRUST WERE NOT A UNITRUST, AND THEN FROM PRINCIPAL; AND

(5) THE TRUSTEE MAY DETERMINE TO ACCOUNT FOR THE UNITRUST DISTRIBUTION IN ACCORDANCE WITH THE FOLLOWING RULES: